

LIFE IS GOOD, INC. V. LG ELECTRONICS U.S.A., INC
Civil Action No. 04 11290 WGY

DECLARATION OF TIMOTHY LEMPER IN SUPPORT OF DEFENDANTS' MOTION IN LIMINE
TO STRIKE THE SURVEY OF PLAINTIFF'S EXPERT ROBERT KLEIN

Exhibit 5

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COPY

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LIFE IS GOOD, INC., :
:
Plaintiff, :
:
v. : No. 04 11290 REK
:
LG ELECTRONICS U.S.A., INC., :
:
Defendant. :
-----x

Washington, D.C.

Tuesday, June 6, 2006

Deposition of

MAUREEN MORRIN

a witness, called for examination by counsel for Plaintiff, pursuant to notice and agreement of counsel, beginning at approximately 10:15 a.m., at the law offices of Finnegan Henderson Farabow Garrett & Dunner, LLP, 901 New York Avenue, NW., Washington, D.C., before Mary Ann Payonk of Beta Court Reporting, notary public in and for the District of Columbia, when were present on behalf of the respective parties:

1 A It doesn't mean that throwing out
2 data because you have to makes the remaining
3 data good.

4 Q And is there anything that you
5 might do in that circumstance to address the
6 situation?

7 A Well, it's not just that one
8 problem. If you read further, there were
9 numerous types of errors. And at the time I
10 wrote this report I tallied up 112
11 respondents who had been thrown out.

12 Actually in preparing for this deposition I
13 went and hand-counted all the surveys that I
14 had and found an additional 11 incremental
15 respondents from Florida who had also been
16 thrown out in addition to this 112, bringing
17 the total up to 123, which is over 20 percent
18 of the total sample size. And in my opinion,
19 that's a large amount of data to dump. I've
20 never seen a study where that much data was
21 omitted.

22 Q Let's just start with the sentence

1 there were additional respondents obtained to
2 replace the ones that had been omitted?

3 A I can't say for sure. It would
4 seem to me that they did not do that in San
5 Francisco because the reported sample size in
6 San Francisco is lower than that of the other
7 markets. And in the other markets, maybe one
8 to eight respondents are affected, so -- and
9 Klein does not indicate to my knowledge when
10 he found out about each of these problems and
11 what measures he took to address them.

12 Q If additional responses were
13 obtained to address the ones that were being
14 omitted, might that affect your conclusion?

15 A I don't think so, because taken as
16 a whole, the various types of errors, which
17 include interviewer errors, validation
18 failures, bad skip patterns, questionable
19 interviews, site error, the fact that there
20 are so many types of errors that have been
21 identified leads me to question even the data
22 that are included, because I'm not sure that

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1 he was able to find all the errors. It's
2 such a wide range of types of errors, who
3 knows those that -- that -- that weren't
4 even, you know, detected by him?

5 So -- and some markets were
6 completely omitted, such as Florida, so I
7 guess my response is just, you know, adding
8 more respondents to the pool does not make me
9 feel comfortable with throwing out that many
10 respondents.

11 Q Have you seen survey -- likelihood
12 of confusion surveys with errors such as the
13 ones listed here before?

14 A I have never seen a survey where so
15 many people are omitted based on errors.

16 This is unprecedented in my experience.

17 Q And do you recall seeing surveys
18 where responses were omitted before?

19 A Off the top of my head, no.

20 Q In the last sentence of that
21 paragraph you refer to -- you use the words
22 "inappropriate data collection procedures."